

1 Matthew Franklin Jaksa (CA State Bar No. 248072)  
2 HOLME ROBERTS & OWEN LLP  
3 560 Mission Street, 25<sup>th</sup> Floor  
4 San Francisco, CA 94105-2994  
5 Telephone: (415) 268-2000  
6 Facsimile: (415) 268-1999  
7 Email: matt.jaksa@hro.com

8  
9 Attorneys for Plaintiffs,  
10 WARNER BROS. RECORDS INC.;  
11 INTERSCOPE RECORDS; MAVERICK  
12 RECORDING COMPANY; UMG RECORDINGS,  
13 INC.; BMG MUSIC; and VIRGIN RECORDS  
14 AMERICA, INC.

15  
16 UNITED STATES DISTRICT COURT  
17 NORTHERN DISTRICT OF CALIFORNIA  
18 SAN FRANCISCO DIVISION

19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
WARNER BROS. RECORDS INC., a Delaware corporation; INTERSCOPE RECORDS, a California general partnership; MAVERICK RECORDING COMPANY, a California joint venture; UMG RECORDINGS, INC., a Delaware corporation; BMG MUSIC, a New York general partnership; and VIRGIN RECORDS AMERICA, INC., a California corporation,

Plaintiffs,

v.

JOHN DOE #2,

Defendant.

CASE NO. 3:07-CV-04842-MJJ

**The Honorable Martin J. Jenkins**

**DECLARATION OF MATTHEW FRANKLIN JAKSA IN FURTHER SUPPORT OF *EX PARTE* APPLICATION TO CONTINUE CASE MANAGEMENT CONFERENCE AND EXTEND TIME TO SERVE DEFENDANT**

1                   **DECLARATION OF MATTHEW FRANKLIN JAKSA**

2                   I, MATTHEW FRANKLIN JAKSA, declare:

3                   1.       I am an attorney at law licensed to practice before the Courts of the State of  
4                   California and the United States District Court, Northern District of California. I am an associate  
5                   with the law firm of Holme Roberts & Owen LLP, counsel of record for Plaintiffs. Unless otherwise  
6                   stated, I have personal knowledge of the following facts and, if called and sworn as a witness, could  
7                   and would competently testify thereto.

8                   2.       Plaintiffs filed the Complaint for Copyright Infringement (“Complaint”) against  
9                   Defendant John Doe #2 (“Defendant”) on September 20, 2007 alleging that Defendant used an  
10                  online media distribution system to download and/or distribute certain of Plaintiffs’ copyrighted  
11                  sound recordings, and that such acts constituted infringement of Plaintiffs’ copyrights and/or  
12                  exclusive rights under copyright.

13                  3.       Plaintiffs did not have sufficient identifying information to name Defendant in the  
14                  Complaint, but were able to identify Defendant by the Internet Protocol address assigned to  
15                  Defendant by Defendant’s Internet Service Provider – here, San Francisco State University  
16                  (“SFSU”).

17                  4.       Accordingly, also on September 20, 2007, Plaintiffs filed their *Ex Parte* Application  
18                  for Leave to Take Immediate Discovery, seeking the Court’s permission to serve a Rule 45 subpoena  
19                  on SFSU in order to obtain information sufficient to identify Defendant, including Defendant’s true  
20                  name, current (and permanent) addresses and telephone numbers, e-mail addresses, and Media  
21                  Access Control address.

22                  5.       This Court has not yet ruled on Plaintiffs’ *Ex Parte* Application for Leave to Take  
23                  Immediate Discovery. Since Plaintiffs do not yet have an order from the Court permitting Plaintiffs  
24                  to serve a Rule 45 subpoena on SFSU, Plaintiffs are unable to determine the identity of Defendant at  
25                  this time.

26                  6.       If the Court grants Plaintiffs’ *Ex Parte* Application for Leave to Take Immediate  
27                  Discovery, Plaintiffs will attempt to determine Defendant’s identity by serving a Rule 45 subpoena  
28                  on SFSU.

1       7. When and if Plaintiffs discover Defendant's identifying information, Plaintiffs will  
2 attempt to contact Defendant and attempt to resolve the dispute. If the dispute is not resolved and it  
3 is determined that it would be more appropriate to litigate the copyright infringement claims in  
4 another jurisdiction, Plaintiffs will dismiss the present lawsuit and re-file in the appropriate  
5 jurisdiction.

6           8. The deadline for Plaintiffs to serve Defendant with the Summons and Complaint is  
7 January 18, 2008.

8       9. Unless and until Plaintiffs learn Defendant's identity, Plaintiffs will be unable to  
9 amend the complaint to name Defendant or serve the amended complaint on Defendant.

10 I declare under penalty of perjury under the laws of the United States of America that the  
11 foregoing is true and correct.

12 Executed this 20th day of December, 2007, at San Francisco, California.

Matthew Franklin Jaksa